

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FERNANDO MORALES,

Plaintiff,

v.

SQUARE, INC.

Defendant.

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) **CIVIL ACTION NO. 5:13-cv-01092-DAE**
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DEFENDANT SQUARE, INC.'S NOTICE OF SUPPLEMENTAL AUTHORITY

Defendant Square, Inc. (“Square”) respectfully provides the following notice of supplemental authority related to its pending Motion to Dismiss (Dkt. No. 10). Following the completion of briefing, on November 14, 2014, the U.S. Court of Appeals for the Federal Circuit rendered a precedential decision in *Ultramercial, Inc. v. Hulu, LLC and WildTangent, Inc.*, — F.3d —, No. 2010-1544 (Fed. Cir. Nov. 14, 2014) (“*Ultramercial III*,” Exhibit A).

Ultramercial III follows the vacated decision in *Ultramercial II, Ultramercial, LLC v. Hulu, LLC*, 722 F.3d 1335 (Fed. Cir. 2013), *vacated sub nom. WildTangent, Inc. v. Ultramercial, LLC*, 573 U.S. —, 134 S. Ct. 2870 (2014). Plaintiff Morales relied upon *Ultramercial II* for the proposition that patent invalidity pursuant to 35 U.S.C. § 101 (“Section 101”) ought not be determined on a motion to dismiss (Dkt. No. 16). *Ultramercial III* affirms the District Court’s grant of a motion to dismiss due to patent ineligibility under Section 101 in light of the Supreme Court’s decision in *Alice Corp. v. CLS Bank International*, 573 U.S. —, 134 S. Ct. 2347 (2014). See *Ultramercial III* at *3, *6.

Dated: November 20, 2014

Respectfully submitted,

By: /s/ Stefani E. Shanberg
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**ATTORNEY FOR DEFENDANT
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on November 20, 2014. Any other counsel of record will be served via electronic and first class mail.

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